



Order Filed on October 26, 2017
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

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In re:

ANTHONY M. MORTELLITE, JR., and COLLEEN
MORTELLITE,

Debtors.

CASE NO. 17-21818 (ABA)

In the Matter of:

BLUES BROTHERS, LLC,

Debtor.

CASE NO. 17-21820 (ABA)

Judge: Andrew B. Altenburg

Chapter: 12

**ORDER (1) WITHDRAWING MOTION FOR ORDER AUTHORIZING CONTINUED
USE OF CASH COLLATERAL; (2) DENYING VACATING ORDER VACATING
AUTOMATIC STAY; (3) SCHEDULING CONFIRMATION HEARING; AND (4)
GRANTING OTHER RELIEF**

The relief set forth on the following pages, numbered two (2) through three (3) is hereby

ORDERED.

DATED: October 26, 2017



Honorable Andrew B. Altenburg, Jr.
United States Bankruptcy Court

Page: 2

Debtor: In re Mortellite, Anthony & Colleen; In re Blues Brothers, LLC

Cases No: 17-21818 & 17-21820

Caption: ORDER (1) WITHDRAWING MOTION FOR ORDER AUTHORIZING CONTINUED USE OF CASH COLLATERAL; (2) DENYING VACATING ORDER VACATING AUTOMATIC STAY; (3) SCHEDULING CONFIRMATION HEARING; AND (4) GRANTING OTHER RELIEF

This matter is before the Court on the motion (the “Motion”) of Anthony M. Mortellite, Jr. and Colleen Mortellite, debtors in case no. 17-21818 and Blues Brothers, LLC, debtor in case no. 17-21820, seeking an Order Authorizing The Continued Use of Cash Collateral and Vacating Order Vacating Automatic Stay (DOC # 120); and

IT APPEARING that after the Motion was filed, Anthony M. Mortellite, Jr. and Colleen Mortellite, debtors in case no. 17-21818, and Blues Brothers, LLC, debtor in case no. 17-2182, filed a Second Amended Chapter 12 Plan in case no. 17-21818 (DOC # 130) (the “Mortellite and Blues Brothers Second Amended Plan”); and

IT FURTHER APPEARING that on October 20, 2017, the Court heard oral argument on the Motion; and for good cause shown:

IT IS ORDERED as follows:

1. Cash Collateral Motion. The debtors, Anthony M. Mortellite, Jr., Colleen Mortellite and Blues Brothers, LLC, **WITHDRAW** their motion to continue to use cash collateral. Anthony M. Mortellite, Jr., Colleen Mortellite and Blues Brothers, LLC, shall not use any cash collateral for any reason without the prior written consent of Farm Credit or an Order from this Court.
2. Re-imposition of Automatic Stay. The Court **DENIES** the debtors’ motion to vacate the order vacating the automatic stay entered on October 6, 2017 in case no. 17-21818 (DOC # 116) (“Stay Relief Order”). However, the Court conditions the Stay Relief Order, as follows:

Page: 3

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Cases No: 17-21818 & 17-21820

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- a. Real Property - Farm Credit shall be entitled to proceed with its pending foreclosure litigation against the real property described in the Stay Relief Order (the “Farm”), including but not limited to seeking final judgment. Farm Credit shall not schedule or advertise a sale of the Farm until after November 17, 2017.
- b. Personal Property – As a judgment creditor with stay relief, Farm Credit shall be entitled to execute against all personal property owned by Anthony M. Mortellite, Jr., Colleen Mortellite and Blues Brothers, LLC (the “Personal Property”), *except for the personal bank accounts (the “Personal Bank Accounts”)* of Anthony M. Mortellite, Jr., Colleen Mortellite which the debtors represent has a balance of less than \$1,000. The Sheriff of Camden County or any other County shall be entitled to execute on the Personal Property (excluding the Personal Bank Accounts) by performing a constructive levy with all Personal Property to remain in possession of the Debtors. Farm Credit shall also be entitled to levy on all bank accounts in which the Debtors have an interest, but not seek turnover of any funds, except for the Personal Bank Accounts. At the confirmation hearing scheduled below, the Court can make a further determination as to whether any levy should be released (if the Plan is confirmed) or whether Farm Credit is entitled to proceed to take possession and sell the Personal Property (if the Plan gets denied).

Page: 4

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- c. Farm Credit shall not seek turnover or possession of any Personal Property or schedule a sheriff sale of any Personal Property until after November 17, 2017.

3. Plan and Confirmation Hearing Schedule

- a. The Court shall conduct confirmation hearings (the “Confirmation Hearings”) on the Mortellite Blues Brothers Second Amended Plan on November 17, 2017, commencing at 11:00 a.m.
- b. The Confirmation Hearings shall be held before the Honorable Andrew Altenburg, in Courtroom No. 4B, United States Bankruptcy Court, 400 Cooper Street, Fourth Floor, Camden New Jersey.
- c. On or before November 3, 2017, the Debtors shall serve on counsel for Farm Credit and the Chapter 12 Trustee all documents the Debtors intend to refer to or introduce into evidence at the Confirmation Hearings, including any expert reports that were not previously produced (ie. Debtors’ accountant).
- d. On or before November 10, 2017, Farm Credit shall serve any additional expert reports for any expert that may testify at the Confirmation Hearings. Any reports produced in accordance with the prior scheduling Order shall be deemed served in accordance with this Order.
- e. Any objections to the Mortellite Blues Brothers Second Amended Plan shall be filed by November 13, 2017.

Page: 5

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- f. Nothing in this Order shall be deemed a finding or ruling that the bankruptcy estates of Anthony M. Mortellite, Jr., Colleen Mortellite and Blues Brothers, LLC, are substantively consolidated.

NOTICE OF ORDER

The Debtors shall serve a copy of this Order and Notice by electronic mail only within two (2) business day from the date hereof, on (i) counsel for Farm Credit, and (ii) counsel for Chapter 12 Trustee. The Debtors shall immediately file with the Clerk a Certificate of Service of said mailing.